

**AGREEMENT**

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE ARIZONA BOARD OF REGENTS  
ACTING FOR AND ON THE BEHALF OF  
THE UNIVERSITY OF ARIZONA

THIS AGREEMENT is entered into August 24, 2004, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION ("State") and the ARIZONA BOARD OF REGENTS acting for and on the behalf of the UNIVERSITY OF ARIZONA (the "University").

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.
2. The University is empowered by Arizona Revised Statutes Section 15-1626 to enter into this agreement and has by Policy BOR 3-103, a copy of which is attached hereto and made a part hereof, authority to execute this agreement on behalf of the University.
3. It is to the mutual benefit of the State and the University to enter into an agreement specifying their respective maintenance responsibilities associated with snowplowing State Route (SR) 366, from milepost (MP) 118.5 to MP 143.3, in the event that State is unable to provide proper maintenance due to priority routes in Graham County.

**THEREFORE**, in consideration of the mutual agreements expressed herein, it is agreed as follows:

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NO. 27031  
Filed with the Secretary of State  
Date Filed: 8/24/04

Janice K. Brewer  
Secretary of State

By: Timothy J. Haenwald

## **II. SCOPE OF WORK**

1. The State will:

a. Grant the University a right of way "Use Permit" to access State's rights of way as required, for snow plowing SR 366 behind the closure to the Columbine Ranger Station between MP 118.5 and MP 143.3 in the event the State is not able to plow snow due to priority routes in Graham County.

b. Allow snow removal efforts by the University on the entire route, under the direction of the State Safford Maintenance Supervisor and in accordance with the attached permit identifying the criteria.

2. The University will:

a. In accordance with the attached permit, provide the State Safford Maintenance Supervisor as much notice as practical.

b. Notify the State Safford Maintenance Supervisor upon completion of the snow plowing.

## **III. MISCELLANEOUS PROVISIONS**

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect for a period of five (5) years from the effective date and may be amended (by letter), upon mutual consent of both parties. This Agreement will be reviewed by the Attorney General's office if the parties wish to amend any of the material provisions. All reviews shall be completed prior to the end of the 5<sup>th</sup> year anniversary date prior to automatic renewal. If this agreement is not renewed prior to the end of the fifth (5<sup>th</sup>) year in accordance with Section 3 below, the Agreement shall automatically renew for an additional five (5) year period. This agreement may be cancelled by either party upon 90 day written notice.

2. The University agrees to be liable and responsible for any and all claims, losses, liability, costs, or expenses, including reasonable attorney's fees (hereinafter collectively referred to as "claims"), arising out of bodily injury of any person, including death, property damage, or any other claims of any nature whatsoever, but only to the extent that such claims which result in vicarious/derivative liability to the State, are caused by the act, omission, negligence, misconduct, or other fault of the University, its officers, officials, agents, employees or volunteers.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to the agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona are incorporated herein by reference regarding "Non-Discrimination".

7. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes, Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, Arizona 85007  
FAX: (602) 712-7424

University of Arizona  
Mount Graham Observatory  
1480 W. Swift  
Safford, Arizona 85546

For Notification Purposes Contact:  
Safford Maintenance District  
Attn: Maintenance Supervisor  
2082 East Hwy 70  
Safford, Arizona 85546  
TEL: (928) 428-5470  
FAX: (928) 428-7523

9. Pursuant to Arizona Revised Statutes, Section 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

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IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

Arizona Board of Regents on behalf of  
UNIVERSITY OF ARIZONA

By Ernette C Leslie  
ERNETTE C. LESLIE  
Contract Administrator

STATE OF ARIZONA  
Department of Transportation

By Susan Tellez  
SUSAN TELLEZ  
Contract Administrator

The attached <sup>University</sup> Addendum is hereby  
Incorporated into this agreement.

Policy Number: 3-103	Policy Name: Signing of Documents on Behalf of the Board	
Policy Revision Dates: 4/96, 3/92, 9/90, 10/83	Page 1	

### 3-103 Signing of Documents on Behalf of the Board

- A. University officers designated by the president of the university, as certified to the Executive Director, are authorized to execute contracts and other written instruments on behalf of the Board. In addition, the President of the University may delegate his/her authority to execute contracts and other written instruments to appropriate university officials without certification to the Executive Director in the following circumstances: (1) The value of the university's obligation under the contract or other written instrument is \$10,000 or less; and (2) the delegation of authority is warranted to improve efficiency and effectiveness of university operations and does not unduly expose the Board or the university to financial loss.
- B. Officers of the central staff approved by the Board of Regents are authorized to execute and deliver in behalf of the Board all instruments incidental, convenient or necessary to the transaction of business between said Board and the Department of Administration of the State of Arizona.
- C. The president, secretary, or assistant secretary of the Board, or the secretary to said Board, is authorized to certify to depositories approved pursuant to Section 3-101 the following:
  1. A copy of the relevant Board policies.
  2. A copy of Board actions taken to implement the policies in Chapter III.
  3. A copy of the names and signatures of Board or university officers or employees authorized to act in the premises.

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

AGENCY NAME: STATE OF ARIZONA  
DEPARTMENT OF TRANSPORTATION

EFFECTIVE DATE: Upon filing with the Secretary of State

TERMINATION DATE: Five years from the effective date or  
upon 90 days written notice to the  
other party

AMOUNT: NONE

PURPOSE: To specify the maintenance  
responsibilities associated with  
snowplowing State Route (SR) 366, from  
milepost (MP) 118.5 to MP 143.3

UNIVERSITY COLLEGE/DEPARTMENT: Steward Observatory -  
Mount Graham Observatory

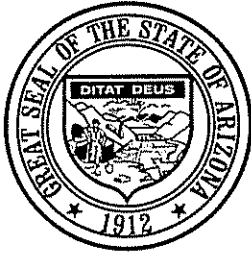
The undersigned has determined that the foregoing agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to the Board of Regents.

Dated this 2 day of August, 2004.

Joel Sideman, Counsel  
Arizona Board of Regents

By

  
Thomas M. Thompson



**ATTORNEY GENERAL  
CIVIL DIVISION  
TRANSPORTATION SECTION**

**MEMORANDUM**

Jeffrey T. Murray  
Assistant Attorney General

Direct: (602) 542-8859  
Fax: (602) 542-3646

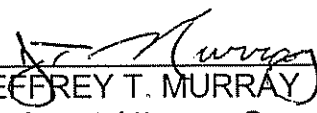
**INTERGOVERNMENTAL AGREEMENT  
DETERMINATION**

A.G. Contract No. KR03-0723TRN (**JPA 03-018**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED August 16<sup>th</sup>, 2004.

TERRY GODDARD  
Attorney General

  
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JEFFREY T. MURRAY  
Assistant Attorney General  
Transportation Section